

Hon. Robert Brutinel, Chair
Committee on the Impact of Wireless Mobile Technologies
and Social Media on Court Proceedings
1501 W. Washington St., Suite 410
Phoenix, AZ 85007

IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of)	
)	
PETITION TO AMEND SUPREME)	Supreme Court No. R-13- _____
COURT RULE 122)	(Modified comment period
)	requested)
_____)	

Petitioner respectfully petitions this Court to amend Rule 122 of the Rules of the Supreme Court, governing use of cameras and other recording devices in the courtroom. The proposed text of the amendments appears in the Appendix attached to this petition. Because the proposed rule amendments are extensive, the Appendix includes a “mark-up” version and a “clean” version.

I. Background. Petitioner is the Chair of the Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings (the “Wireless Committee”), which was established by Administrative Order No. 2012-22. The Wireless Committee presented its report and recommendations to the

Arizona Judicial Council (“AJC”) on December 13, 2012, at which time the AJC approved the Wireless Committee’s request to file a petition to amend Rule 122.

Administrative Order 2012-22 recognized the “unprecedented growth” of wireless mobile technologies. The Order continued by stating, in part:

“Arizona courts have rules governing cameras in the courtroom. Most rules allow media cameras in the courtroom with the judge’s permission. Today, many devices such as laptops, cell phones, and tablets can take photos and videos... Rule 122 may need revision to provide additional guidance to judges and other court personnel on how to respond appropriately to legitimate concerns about the use of cameras or other recording devices in the courtroom or the courthouse.”

The Supreme Court adopted Rule 122 in 1993. The Court most recently amended the rule in 2008, following a rule petition by KPNX Broadcasting Company, Rule Petition Number 07-0016. Rule 122 addresses the news media’s use of cameras in the courtroom, but with the recent “unprecedented growth” of new technology, Rule 122 now must encompass the use of cameras by “citizen journalists” and others. When the Court adopted Rule 122, broadcast-quality cameras were bulky, and the presence of a media camera in court was obvious. The explosive growth in technology allows a member of the public to use a compact camera that can transmit high-quality still and moving images instantly and wirelessly, creating multiple “media centers” in every courtroom.

II. Content of the proposed rule amendments. The most visible differences between existing Rule 122 and the proposed version are the result of

“restyling.” The Federal Rules of Civil Procedure and the Federal Rules of Evidence have been restyled, and Arizona adopted its own restyled rules of evidence effective on January 1, 2012. Restyling includes elimination of inconsistent, ambiguous, redundant, repetitive, or archaic words. (See the Federal Advisory Committee’s notes to the 2011 amendments to the Federal Rules of Evidence that follow Rule 101.¹)

In addition to making the text of Rule 122 clearer, the restyled version also promotes greater clarity by re-organizing the rule. One of the ways the rule does this is by placing provisions of the rule in a sequence that more closely follows the chronology of a typical Rule 122 request. The proposed rule also combines related provisions of the existing rule, and eliminates superfluous text. Section headings have been included in the Wireless Committee’s revised version to promote a better and more-ready understanding of the rule.

The proposed amendments to Rule 122 also include the following changes.

(1) Definitions: The existing rule has no definitions. A new section (b) defines a half-dozen operative words, including “camera,” “coverage,” “person,” and “recording device.”

¹ See also the Prefatory Comment to the 2012 Amendments to the Arizona Rules of Evidence: “*The restyling is intended to make the rules more easily understood and to make style and terminology consistent throughout the rules....*”

(2) Persons: Section (f) of the current rule begins, “Requests by the media for coverage....” Some construe this current phrasing to require only the media to submit a request for camera coverage. Section (c) of the revised rule eliminates this ambiguity and clarifies that any “person,” as this word is defined in section (b), must submit a request for camera coverage of a court proceeding. A “citizen journalist” or a member of the public may therefore submit a request for coverage, and must do so, if he or she wishes to use a camera in the courtroom.

(3) New factor: Section (e) of the revised rule adds a new factor to those that a judge must consider in ruling on a coverage request. The new factor is “whether the person making the request is engaged in the dissemination of news to a broad community.” This additional factor should favor camera use that fulfills the original intent of the rule: making court events available for the public-at-large.

(4) Process: The current rule omits a procedure for submitting a request. Section (c) of the revised rule provides a procedural process. This draft section requires a person to “submit” rather than “file” a written request, because the filing of a request with the court clerk could delay its transmission to the appropriate judge. In Maricopa and Pima counties, a person may submit an on-line request to the court’s Public Information Officer or its Community Relations Officer, who will route it to the proper judge. In practice, one of these officers or the judge’s staff promptly notifies the parties of the request for coverage.

(5) Time: Because the court usually schedules a trial date well in advance, section (c) of the revised rule requires a person to submit a request to cover a trial at least seven days before the trial starts, rather than two days as provided in the existing rule. (This expanded time might help to avoid situations such as the one presented in *Star Publishing Company v Bernini*, 228 Ariz. 490, 268 P.3d 1147 (Div. Two, 2012), where a coverage request filed two working days before the start of a jury trial made it difficult for the trial court to schedule a Rule 122 hearing before the trial commenced.) The proposed amendments require a person to submit a request to cover a proceeding, other than a trial, forty-eight hours before the proceeding (compared to two days under the current rule). However, if the court schedules a proceeding less than seventy-two hours in advance, a person must submit the request “sufficiently in advance of the proceeding as not to delay or interfere with it.”

(6) Multiple devices: Section (i) of the proposed revisions retains a “presumptive limit” of one microphone and one audio recording device, and one video and one still camera. However, the judge conducting the proceeding has discretion under this revised section to approve a request for additional recording devices, particularly multiple cameras. Multiple cameras may produce a superior journalistic product without disrupting a proceeding. Cameras are quieter and less

distracting than those used twenty years ago. Some cameras have remote controls that do not require the physical presence of camera operators in the courtroom.

(7) Victims: Rule 122 currently does not have a provision regarding coverage of a victim. By comparison, sections (e), (f), and (l) of the proposed rule add provisions concerning victims. These revisions acknowledge the special status of a victim, who may be neither a party nor a witness in a criminal proceeding.

(8) Exceptions to the section (c) request requirement: Under proposed section (l), a person may verbally request, and a judge may verbally approve, use of a recording device to record or photograph a celebratory or ceremonial court proceeding. The revisions to Rule 122(j) allow use of a “personal audio recorder,” but only after the operator notifies the court of the intended use. “Personal audio recorder,” an undefined term in the current rule, is defined in section (b) as one that is on, held by, or immediately next to the operator. Under the current rule, only a journalist may use a personal audio recorder; the proposed rule contains no such limitation. As with the current rule, the judge has no authority under the proposed rule to forbid use of a personal audio recorder, but the notice requirement will alert the court when one is in use within the courtroom. Additionally, a court may provide coverage of its own proceedings, and section (c) exempts a court from the requirement of submitting a request.

(9) Technical update: The revisions also eliminate technical requirements and references in the current rule that are becoming obsolete. For example, Rule 122 now refers to tripods, tapes, reels, and wires, but tripods are no longer essential, and tapes, reels, and wires may be passé.

III. Comments. Petitioner solicited comments on prior drafts of this rule from a variety of stakeholders, including the Committee on Limited Jurisdiction Courts, the Committee on Superior Court, the Commission on Victims in the Courts, and the Limited Jurisdiction Court Administrators Association, as well as during a quarterly conference of the Presiding Judges. During the drafting process, Petitioner also received informal comments from judges statewide.

IV. Conclusion and Request for Modified Comment Period. Petitioner recognizes the statewide importance of this rule, and anticipates public comments that might result in improvements to Petitioner’s proposed version. Petitioner accordingly requests a “*staggered*” comment period. The Wireless Committee would like to reconvene after the initial comment period and address issues raised by those comments, and file an amended rule petition thereafter, if appropriate.

Petitioner therefore requests a modification to the usual rule petition schedule with an Order setting the following deadlines:

March 15: Comments to this initial petition are due

April 19: The Wireless Committee may file an
amended petition

May 24: Comments to an amended petition are due

June 28: The Wireless Committee may file a reply to
comments to its amended petition

This proposed schedule will allow the Court to act upon the matters presented by
this petition in September 2013, as provided by Supreme Court Rule 28(f).

RESPECTFULLY SUBMITTED this 9th day of January 2013

By _____

Hon. Robert Brutinel, Chair

Committee on the Impact of Wireless Mobile

Technologies and Social Media on Court

Proceedings

1501 W. Washington Street

Phoenix, AZ 85007

Appendix

Mark-up version of the current rule: deleted text has ~~striketrough~~; new text has underline

Rule 122: ~~Electronic and Photographic Coverage of Public Judicial~~ Use of Recording Devices during a Court Proceedings

~~Electronic and still photographic coverage of public judicial proceedings conducted by a judicial officer during sessions of court may be permitted in accordance with the following guidelines:~~

~~(a) No electronic or still photographic coverage of juvenile court proceedings shall be permitted, except that such coverage may be permitted in adoption proceedings for the purpose of memorializing the event, with the agreement of the parties to the proceeding and the court.~~

a. Purpose. This rule allows the use of recording devices during a court proceeding, subject to specified requirements and limitations.

b. Definitions. The following definitions apply in this rule. A term defined in the singular includes the plural.

1. A “camera” is any electronic or mechanical device used to photograph, record, or broadcast still or moving images.

2. A “court proceeding” is an event conducted in a courtroom. A court proceeding does not include an event conducted in judicial chambers, in anterooms, in rooms where jurors assemble or deliberate, or in other areas of the courthouse.

3. “Cover” and “coverage” refer to a person’s use of a recording device during a court proceeding.

4. A “person” includes an individual and any organization except a court.

5. A “personal audio recorder” is any audio recording device that is on, held by, or immediately next to, a person who is operating the device.

6. A “recording device” is any electronic or mechanical apparatus and related equipment used to capture and store the sound or the images, or both, of a court proceeding, and from which a person can retrieve or broadcast sound or images. A camera, a smart phone, and an audio recorder are examples of recording devices.

c. Request to cover a court proceeding. A person who wishes to use a recording device during a court proceeding, other than a personal audio recorder as provided in section (j), must submit a written request to approve coverage. The person must submit the request to the judge who will conduct the proceeding, or to an office of the court designated by the presiding judge for receiving requests under this rule. The request must identify at a minimum the person who is submitting it, the case, the proceeding, and the date(s) of the proposed coverage. The submission of a request to cover a court proceeding provides a person with standing on the request, but it

does not confer upon a person the status of a party to the case. If the specified proceeding is a trial, a person must submit a request at least seven calendar days before the trial date. If the proceeding is not a trial, a person must submit a request as soon as possible, and no less than forty-eight hours before the specified proceeding, to allow the judge to consider the request in a timely manner. However, if the court schedules a proceeding on less than seventy-two hours notice, a person must file the request sufficiently in advance of the proceeding as not to delay or interfere with it. The court will notify the parties of its receipt of a request for coverage. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party objects to a request. A court may provide coverage of its own proceedings, and it is exempt from the requirements of section (c).

d. Time for a party to object to a request. A party waives an objection to coverage unless the party objects to the request in writing or on the record no later than the commencement of the specified proceeding, or the conclusion of a hearing held under section (c), whichever occurs first.

~~(b) Electronic and still photographic coverage of public judicial proceedings other than the proceedings specified in paragraph (a) above may be permitted in the discretion of the judge giving due~~ **e. Factors a judge must consider; findings when a judge limits or denies a request for coverage.** In deciding whether to approve a person's request to cover a court proceeding or a party's objection to coverage, the judge conducting the proceeding must consider the following factors:

- ~~(i)~~ (1) The impact of coverage upon the right of any party to a fair hearing or trial;
- ~~(ii)~~ (2) The impact of coverage upon the right of privacy of any party, victim, or witness;
- ~~(iii)~~ (3) The impact of coverage upon the safety and well-being of any party, victim, witness or juror;
- ~~(iv)~~ (4) The likelihood that coverage would distract participants, or that coverage would detract from the dignity of or would disrupt the proceedings;
- ~~(v)~~ (5) The adequacy of the physical facilities of the court for coverage;
- ~~(vi)~~ (6) The timeliness of the request pursuant to subsection (f) (c) of this Rule; and
- (7) Whether the person making the request is engaged in the dissemination of news to a broad community; and
- ~~(vii)~~ (8) Any other factor affecting the fair administration of justice.

The judge conducting the proceeding may limit or deny coverage only after making specific, on-the-record findings that there is a likelihood of harm arising from one or more of the above factors, and that the harm outweighs the benefit of coverage to the public. A judge's decision to limit or to deny a request for coverage under this rule is reviewable only by special action.

~~(e) f. **Objection to coverage by a non-party victim or witness.** The judge may limit or prohibit electronic or still photographic coverage only after making specific, on the record findings that there is a likelihood of harm arising from one or more of the above factors that outweighs the benefit to the public of camera coverage. (d) Electronic and still photographic~~ An attorney who represents a non-party victim, or who calls a witness to testify, must notify that victim or witness of coverage of the court proceeding. A non-party victim or witness may object to coverage of his or her appearance or testimony at any time. A judge may grant the objection and prohibit coverage of the appearance or testimony of a particular non-party victim or witness may be prohibited if the judge determines after consideration of the factors in section (e) and upon a determination that such coverage coverage would have a greater adverse impact upon the that victim or witness or his or her testimony than non-electronic and non-photographic coverage would have other traditional methods of news reporting. ~~(e) The law generally applicable to inclusion or exclusion of the press or public at court proceedings or during the testimony of particular witness shall apply to the coverage hereunder. The exercise of the judge's discretion in limiting or precluding electronic or still photographic coverage shall be reviewable only by special action.~~

~~(f) Requests by the media for coverage shall be made to the judge of the particular proceeding sufficiently in advance of the proceeding or portion thereof as not to delay or interfere with it. Unless the judicial proceeding is scheduled on less than three days notice, the request to tape or photograph a proceeding must be made no less than two days in advance of the hearing. The judge shall notify all parties and witnesses of the request. If there is any objection to a request for camera coverage or an order allowing electronic or still photographic coverage, the court shall hold a hearing promptly.~~

~~(g) Objections of a party to coverage must be made on the record prior to commencement of the proceeding or portion thereof for which coverage is requested. Objections of a non-party witness to coverage of his or her appearance or testimony may be made to the judge at any time. Any objection not so made will be deemed waived.~~

~~(h) Nothing herein shall alter the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct governing trial publicity.~~

~~(i) Individual journalists may use their personal audio recorders in the courtroom, but such usage shall not be obtrusive or distracting and no changes of tape or reels shall be made during court sessions. In all other respects, news reporters or other media representatives not using cameras or electronic equipment shall not be subject to these guidelines.~~

~~(j) No media film, videotape, still photograph or audio reproduction of a judicial proceeding shall be admissible as evidence in such proceeding or in any retrial or appeal thereof.~~

~~(k) Coverage of jurors in a manner that will permit recognition of individual jurors by the public is strictly forbidden. Where possible, cameras should be placed so as to avoid photographing jurors in any manner.~~

~~(l) Absent express permission of the court, there shall be no audio recording or broadcasting of conferences in the court building between attorneys and their clients, between attorneys, of jury interviews or in any part of the court building where a judicial proceeding is not being conducted.~~

~~(m) It shall be the responsibility of the media to settle disputes among media representatives, facilitate pooling where necessary, and implement procedures which meet the approval of the judge of the particular proceeding prior to any coverage and without disruption to the court. If necessary the media representatives shall elect a spokesperson to confer with the court.~~

~~(n) No more than one television camera and one still camera mounted on a tripod, each with a single camera operator, shall be permitted in the courtroom for coverage at any time while court is in session. The broadcast media shall select a representative to arrange the pooling of media participants. The court shall not participate in the pooling agreement.~~

~~(o) **g. Manner of coverage.** The judge conducting the proceeding of a particular proceeding shall, in a manner which will preserves the dignity of the the proceeding, by designating the placement of equipment and personnel for electronic and still photographic coverage of photographing, recording, or broadcasting that the proceeding, and all equipment and personnel shall will be restricted to the designated area so designated. Whenever possible, media equipment and personnel shall be placed outside the courtroom. Videotape recording equipment not a component part of a television camera shall be placed outside the courtroom. To the extent possible, wiring shall be hidden, and in any event shall not be obtrusive or cause inconvenience or hazard. While court is in session, equipment shall not be installed, moved or taken from the courtroom nor shall photographers or camera o Operators of recording devices may not move about the courtroom while court is in session. (p) All persons and affiliated individuals engaged in the coverage permitted hereunder shall must avoid conduct or dress which that may detract from the dignity of the proceedings. The judge conducting the proceeding may order a restriction or cessation of coverage during a proceeding in furtherance of the interests of justice.~~

~~(q) **h. Equipment.** A person must not install, move, or take recording equipment from the courtroom during a court proceeding. A person must hide wiring as much as possible, and wiring must not cause an inconvenience or a hazard. A person may connect If possible, media equipment used to provide coverage shall be connected to an existing courtroom sound electronic systems, if possible, but a person must not connect equipment to a court's digital recording system without the express approval of the judge conducting the proceeding. No A person must not bring flash bulbs devices, strobe lights, or other artificial lights of any kind shall be brought into the courtroom. by the media for use in coverage of a proceeding. Where the addition of If a person wishes to use additional standard light fixtures or higher wattage light bulbs, additional standard light fixtures, additional microphones, or other modifications or improvements are sought by the media, the media, through their spokesperson, shall make their recommendations concerning lighting or sound, the person must submit this information in the request under section (c). to tThe presiding judge of the Superior Court, who may direct whatever modifications or improvements deemed necessary, and The judge may not require that public funds be used to make or to maintain A any such modifications or improvements. shall be made and maintained without public expense. (r) Television or still cameras which produce~~

~~distracting sound shall not be permitted. In this regard, the presiding judge may consider a non-digital still camera acceptable if accompanied by a device that effectively muffles camera sounds. (s) Cameras and Microphones, cameras, and other equipment used in the for coverage permitted hereunder shall must meet the “state of the art.” A camera or microphone shall be deemed to meets the “state of the art” when equal in unobtrusiveness, current industry standards, so that the recording devices are as unobtrusive and as equivalent in technical quality and sensitivity to as equipment recording devices in general usage use by the major broadcast stations in the community in which where the courtroom is located. Recording devices that produce distracting sounds are not permitted. (t) Any questions concerning whether particular equipment complies with these guidelines shall this rule will be resolved by the presiding judge of the Superior Court or a designee.~~

i. Number of recording devices; pooling. A request submitted under section (c) may ask the judge to approve audio coverage, or coverage by video camera or by still camera. The presumptive limits are one microphone and recording device for audio coverage, or one video camera and one still camera, but the judge conducting the proceeding has discretion to approve a person’s request to use additional recording devices. If a judge approves requests by more than one person to cover a court proceeding, those persons must pool their resources to limit recording devices in the courtroom to the number approved by the judge. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the approval of the assigned judge prior to any coverage and without disruption to the court.

j. Personal audio recorders; required notice to the court. Any person, including a journalist, may use a personal audio recorder during a court proceeding, but only after the person has given notice of that intended use to the judge or to the judge’s staff prior to using the device. The use of a personal audio recorder pursuant to this section may not be obtrusive, distracting, or otherwise prohibited, and use is subject to the prohibitions of section (m)(2) of this rule. Anyone who wishes to audio record a proceeding with a device that is not on the person, as specified in section (b)(5), must submit a request pursuant to section (c) of this rule.

k. Recording not admissible as evidence. No video, photograph, or audio reproduction of a judicial proceeding that is obtained pursuant to this rule or Rule 122.1 may be used to modify or supplement the official court record of that proceeding, nor is it admissible at that or any subsequent proceeding unless it is offered for another purpose allowed under the Arizona Rules of Evidence.

l. Informal approval for use of a recording device. Notwithstanding other provisions of this rule, a person may verbally request, and a judge conducting the proceeding may verbally approve, use of a recording device in a courtroom to photograph or to record a celebratory or ceremonial court proceeding. A person must obtain the express permission of the presiding judge or a designee to use a recording device in any courtroom when that court is not in session.

m. Prohibitions. Recording or broadcasting is not permitted in the following circumstances.

1. Jurors. Cameras must be placed to avoid showing jurors in any manner. Audio or video recordings or broadcasts of juror interviews, statements, or conversations are also

prohibited, except that a juror may expressly consent to an interview after the jury has been discharged.

2. Attorney conferences. Audio recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.

3. Other areas of the courthouse. A person whose request under this rule has been granted may not photograph, record in, or broadcast from, locations in a courthouse where a court proceeding is not being conducted, without the judge's express approval.

4. Juvenile proceedings. Photographing, recording, or broadcasting of juvenile court proceedings is only as allowed by Arizona law, or as provided in section (l).

5. Criminal proceedings. In a criminal proceeding, a judge on his or her own motion may order that no one may photograph, record, or broadcast the victim in the courtroom. The judge may alternatively order that video coverage must effectively obscure the victim's face and identity, or that there may only be audio coverage of the victim's testimony.

n. Use of a recording device prohibited without approval. Use of a recording device during court proceedings is prohibited except as allowed by this rule. A court must use reasonable means to inform the public of these prohibitions.

o. Other governing law. The law generally applicable to inclusion or exclusion of the press or the public at court proceedings or during the testimony of a particular witness applies to persons who submit a request or notice under this rule. Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct governing trial publicity.

~~(u)~~ To facilitate implementation of this rule, the presiding judge of the Superior Court may appoint an advisory committee to make recommendations regarding improvements affecting media coverage of judicial proceedings.

~~(v)~~ **p. Appellate courts.** ~~In the case of~~ For coverage of proceedings in the Arizona Supreme Court and Courts of Appeal, any references herein in this rule to the “judge conducting the proceeding” or to “judge of the particular proceeding” or the “presiding judge of the Superior Court” shall mean the Chief Justice of the Arizona Supreme Court or the Chief Judge of the Court of Appeals, as the case may be applicable.

“Clean” version:

Rule 122. Use of Recording Devices during a Court Proceeding

a. Purpose. This rule allows the use of recording devices during a court proceeding, subject to specified requirements and limitations.

b. Definitions. The following definitions apply in this rule. A term defined in the singular includes the plural.

1. A “*camera*” is any electronic or mechanical device used to photograph, record, or broadcast still or moving images.
2. A “*court proceeding*” is an event conducted in a courtroom. A court proceeding does not include an event conducted in judicial chambers, in anterooms, in rooms where jurors assemble or deliberate, or in other areas of the courthouse.
3. “*Cover*” and “*coverage*” refer to a person’s use of a recording device during a court proceeding.
4. A “*person*” includes an individual and any organization except a court.
5. A “*personal audio recorder*” is any audio recording device that is on, held by, or immediately next to, a person who is operating the device.
6. A “*recording device*” is any electronic or mechanical apparatus and related equipment used to capture and store the sound or the images, or both, of a court proceeding, and from which a person can retrieve or broadcast sound or images. A camera, a smart phone, and an audio recorder are examples of recording devices.

c. Request to cover a court proceeding. A person who wishes to use a recording device during a court proceeding, other than a personal audio recorder as provided in section (j), must submit a written request to approve coverage. The person must submit the request to the judge who will conduct the proceeding, or to an office of the court designated by the presiding judge for receiving requests under this rule. The request must identify at a minimum the person who is submitting it, the case, the proceeding, and the date(s) of the proposed coverage. The submission of a request to cover a court proceeding provides a person with standing on the request, but it does not confer upon a person the status of a party to the case. If the specified proceeding is a trial, a person must submit a request at least seven calendar days before the trial date. If the proceeding is not a trial, a person must submit a request as soon as possible, and no less than forty-eight hours before the specified proceeding, to allow the judge to consider the request in a timely manner. However, if the court schedules a proceeding on less than seventy-two hours notice, a person must file the request sufficiently in advance of the proceeding as not to delay or interfere with it. The court will notify the parties of its receipt of a request for coverage. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party objects to a request. A court may provide coverage of its own proceedings, and it is exempt from the requirements of section (c).

d. Time for a party to object to a request. A party waives an objection to coverage unless the party objects to the request in writing or on the record no later than the commencement of the specified proceeding, or the conclusion of a hearing held under section (c), whichever occurs first.

e. Factors a judge must consider; findings when a judge limits or denies a request for coverage. In deciding whether to approve a person's request to cover a court proceeding or a party's objection to coverage, the judge conducting the proceeding must consider the following factors:

- (1) The impact of coverage upon the right of any party to a fair hearing or trial;
- (2) The impact of coverage upon the right of privacy of any party, victim, or witness;
- (3) The impact of coverage upon the safety and well-being of any party, victim, witness or juror;
- (4) The likelihood that coverage would distract participants, or that coverage would detract from the dignity of or would disrupt a proceeding;
- (5) The adequacy of the physical facilities of the court;
- (6) The timeliness of the request pursuant to section (c) of this rule;
- (7) Whether the person making the request is engaged in the dissemination of news to a broad community; and
- (8) Any other factor affecting the fair administration of justice.

The judge conducting the proceeding may limit or deny coverage only after making specific, on-the-record findings that there is a likelihood of harm arising from one or more of the above factors, and that the harm outweighs the benefit of coverage to the public. A judge's decision to limit or to deny a request for coverage under this rule is reviewable only by special action.

f. Objection to coverage by a non-party victim or witness. An attorney who represents a non-party victim, or who calls a witness to testify, must notify that victim or witness of coverage of the court proceeding. A non-party victim or witness may object to coverage of his or her appearance or testimony at any time. A judge may grant the objection and prohibit coverage of the appearance or testimony of a particular non-party victim or witness after consideration of the factors in section (e) and upon a determination that coverage would have a greater adverse impact upon that victim or witness or his or her testimony than other traditional methods of news reporting.

g. Manner of coverage. The judge conducting the proceeding will preserve the dignity of the proceeding by designating the placement of equipment and personnel for photographing,

recording, or broadcasting the proceeding, and all equipment and personnel will be restricted to the designated area. Operators of recording devices may not move about the courtroom while court is in session. All persons and affiliated individuals engaged in the coverage must avoid conduct or dress that may detract from the dignity of the proceeding. The judge conducting the proceeding may order a restriction or cessation of coverage during a proceeding in furtherance of the interests of justice.

h. Equipment. A person must not install, move, or take recording equipment from the courtroom during a court proceeding. A person must hide wiring as much as possible, and wiring must not cause an inconvenience or a hazard. A person may connect equipment used to provide coverage to an existing courtroom electronic system, if possible, but a person must not connect equipment to a court's digital recording system without the express approval of the judge conducting the proceeding. A person must not bring flash devices, strobe lights, or other artificial lights of any kind into the courtroom. If a person wishes to use additional standard light fixtures or higher wattage light bulbs, additional microphones, or other modifications or improvements concerning lighting or sound, the person must submit this information in the request under section (c). The judge may direct whatever modifications or improvements deemed necessary. The judge may not require that public funds be used to make or to maintain any such modifications or improvements. Microphones, cameras, and other equipment used for coverage must meet current industry standards, so that the recording devices are as unobtrusive and as equivalent in technical quality and sensitivity as recording devices in general use by major broadcast stations in the community where the courtroom is located. Recording devices that produce distracting sounds are not permitted. Any questions concerning whether particular equipment complies with this rule will be resolved by the presiding judge or a designee.

i. Number of recording devices; pooling. A request submitted under section (c) may ask the judge to approve audio coverage, or coverage by video camera or by still camera. The presumptive limits are one microphone and recording device for audio coverage, or one video camera and one still camera, but the judge conducting the proceeding has discretion to approve a person's request to use additional recording devices. If a judge approves requests by more than one person to cover a court proceeding, those persons must pool their resources to limit recording devices in the courtroom to the number approved by the judge. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the approval of the assigned judge prior to any coverage and without disruption to the court.

j. Personal audio recorders; required notice to the court. Any person, including a journalist, may use a personal audio recorder during a court proceeding, but only after the person has given notice of that intended use to the judge or to the judge's staff prior to using the device. The use of a personal audio recorder pursuant to this section may not be obtrusive, distracting, or otherwise prohibited, and use is subject to the prohibitions of section (m)(2) of this rule. Anyone who wishes to audio record a court proceeding with a device that is not on the person, as specified in section (b)(5), must submit a request pursuant to section (c) of this rule.

k. Recording not admissible as evidence. No video, photograph, or audio reproduction of a judicial proceeding that is obtained pursuant to this rule or Rule 122.1 may be used to modify or

supplement the official court record of that proceeding, nor is it admissible at that or any subsequent proceeding unless it is offered for another purpose allowed under the Arizona Rules of Evidence.

l. Informal approval for use of a recording device. Notwithstanding other provisions of this rule, a person may verbally request, and a judge conducting the proceeding may verbally approve, use of a recording device in a courtroom to photograph or to record a celebratory or ceremonial court proceeding. A person must obtain the express permission of the presiding judge or a designee to use a recording device in any courtroom when that court is not in session.

m. Prohibitions. Recording or broadcasting is not permitted in the following circumstances.

1. Jurors. Cameras must be placed to avoid showing jurors in any manner. Audio or video recordings or broadcasts of juror interviews, statements, or conversations are also prohibited, except that a juror may expressly consent to an interview after the jury has been discharged.

2. Attorney conferences. Audio recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.

3. Other areas of the courthouse. A person whose request under this rule has been granted may not photograph, record in, or broadcast from, locations in a courthouse where a court proceeding is not being conducted, without the judge's express approval.

4. Juvenile proceedings. Photographing, recording, or broadcasting of juvenile court proceedings is only as allowed by Arizona law, or as provided in section (l).

5. Criminal proceedings. In a criminal proceeding, a judge on his or her own motion may order that no one may photograph, record, or broadcast the victim in the courtroom. The judge may alternatively order that video coverage must effectively obscure the victim's face and identity, or that there may only be audio coverage of the victim's testimony.

n. Use of a recording device prohibited without approval. Use of a recording device during court proceedings is prohibited except as allowed by this rule. A court must use reasonable means to inform the public of these prohibitions.

o. Other governing law. The law generally applicable to inclusion or exclusion of the press or the public at court proceedings or during the testimony of a particular witness applies to persons who submit a request or notice under this rule. Nothing in this rule alters the obligation of any attorney to comply with the provisions of the Arizona Rules of Professional Conduct governing trial publicity.

p. Appellate courts. For coverage of proceedings in the Arizona Supreme Court and Courts of Appeal, any reference in this rule to the "*judge conducting the proceeding*" or to the "*presiding*

judge” means the Chief Justice of the Arizona Supreme Court or the Chief Judge of the Court of Appeals, as applicable.